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Attorneys for Plaintiff, the FLSA Collective

Plaintiffs and the proposed Class

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
ANDREAS PEFANIS on behalf of himself
and others similarly situated,

INDEX NO: 08 cv 002 (DLC)

Plaintiff,

v.

WESTWAY DINER, INC.,

Defendant.

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**NOTICE OF PLAINTIFF'S MOTION FOR CONDITIONAL COLLECTIVE
CERTIFICATION AND FOR COURT FACILITATION OF NOTICE
PURSUANT TO 29 U.S.C. § 216(b)**

Please take notice that upon the accompanying Memorandum of Law and annexed materials, Plaintiff, on behalf of himself and all others similarly situated, by his undersigned attorneys, shall move the Court before the Honorable Judge Denise L. Cote, at the United States Courthouse for the Southern District of New York, 500 Pearl Street,

New York, New York, on such day and time as counsel may be heard, for the following relief in this Fair Labor Standards Act collective action:

- (1) Conditional certification of this action as a representative collective action pursuant to the FLSA, 29 U.S.C. § 216(b) on behalf of all non-exempt hourly employees employed within the last three years.
- (2) Court facilitated notice of this FLSA action to the Covered Employees including a consent form (opt-in form) as authorized by the FLSA.
- (3) Approval of the proposed FLSA notice of this action and the consent form.
- (4) Production of the Covered Employees in a computer readable data file containing their names, last known mailing addresses, telephone numbers, Social Security numbers, work locations, and dates of employment.
- (5) Posting of the Notice, along with the consent forms, in each of Westway's locations where Covered Employees are employed.

Dated: New York, New York
August 22, 2008

Respectfully submitted,

JOSEPH & HERZFELD LLP
By: /s/ D. Maimon Kirschenbaum
D. Maimon Kirschenbaum (DK-2338)

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